

SEP 26 2017
CLERK

LAWRENCE K. BAKER
ALBANY

Unified United States Common Law Grand Jury:

• P.O. Box 59; Valhalla New York 10595;

"Justice and Judgment are the inhabitation of thy throne: mercy and truth shall go before thy face." - Psa 89:14

AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.

FILE ON DEMAND UNDER PENALTY OF LAW

Attention Clerk;

You are directed to file the attached document(s) unimpeded as required by law. Any clerk who **refuses or neglects** or **obstructs or impedes** the filing of the enclosed document as required by law would be in violation of 18 USC §2076 and 18 USC §1512(b). Clerks are to file, clerks do not have authority to discriminate.

18 USC §2076 Whoever, being a clerk willfully **refuses or neglects** to make or forward any report, certificate, statement, or document as required by law, shall be fined under this title or imprisoned not more than one year, or both.

18 USC §1512(b); Whoever **obstructs or impedes** any official proceeding shall be fined under this title or imprisoned not more than 20 years, or both.

If you are instructed by any judge or other court officer to **carry away** the enclosed documents and not file you would be guilty of conspiracy and concealment in violation of 18 USC § 2071(a);

18 USC § 2071(a) Whoever willfully and unlawfully conceals, **removes**, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and **carries away** any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined under this title or imprisoned not more than three years, or both. (b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined under this title or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States. As used in this subsection, the term "office" does not include the office held by any person as a retired officer of the Armed Forces of the United States.

CRIME TO INTERCEPT OR CONCEAL

**UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF NEW YORK**

• 445 Broadway, Albany, NY 12207-2936 •

Unified United States Common Law Grand Jury¹

Sureties of the Peace²

P.O. Box 59, Valhalla, NY 10595 Fax: (888) 891-8977

AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, WA, WI, WY:

Proceeding as Next Friend under Rule 17, 28 USCA³ on behalf of petitioner: Removed from Riverside Superior Court for Cause, violation of the right of due process; Amendment V.

PETITIONER: Sergio Paul and Norma Rodriguez
4036 Via San Luis
Riverside, California 92504

DEFENDANTS: Judge Gordon R. Burkhardt
Riverside Superior Court
13800 Heacock Ave Bldg. G
Moreno Valley, CA 92553-3338

U.S Bank N.A.
CEO Richard Davis
800 Nicollet Mall, Minneapolis, MN 55402

RE: Non Judicial Mortgage Foreclosure
For cause violation of the unalienable right of due process
protected by Amendment V.

¹ The UUSCLGJ is comprised of fifty Grand Juries each unified amongst the counties within their respective States. All fifty States have unified nationally as an assembly of Thousands of People in the name of We the People to suppress, through our Courts of Justice, subverts both foreign and domestic acting under color of law within our governments. States were unified by re-constituting all 3,133 United States counties.

² **SURETIES OF THE PEACE:** If anyone has been dispossessed without the legal judgment of his peers, from his lands, castles, franchises, or from his right, we will immediately restore them to him; and if a dispute arise over this, then let it be decided by the five and twenty jurors of whom mention is made below in the clause for securing the peace. Moreover, for all those possessions, from which anyone has, without the lawful judgment of his peers, been disseized or removed by our government, we will immediately grant full justice therein. Magna Carta Paragraph 52.

³ **Next Friend:** "A next friend is a person who represents someone who is unable to tend to his or her own interest." Federal Rules of Civil Procedures, Rule 17, 28 USCA; Haines v. Kerner, 404 U.S. 519 (1972).

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Proceeding as Next Friend under Rule 17, 28 USCA⁶ on behalf of Petitioners: Sergio and Norma Rodriguez

Grand Jury, Sovereigns of the Court
We the People

- Against -

Judge Gordon R. Burkhart, CEO Richard Davis
Defendants

Jurisdiction: Court of Record, under
the rules of Common Law⁷
Action at law:⁸

Case NO: 1:16-CV-1490
Magistrate: Daniel J. Stewart

SHOW CAUSE

We the People⁹ of the Unified United States Common Law Grand Jury, under the power and authority of the Sureties of the Peace, hereinafter the Grand Jury, whereas the Unified

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⁷ "A Court of Record is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial." Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

⁸ **AT LAW:** Bouvier's This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity.

⁹ **PEOPLE:** People are supreme, not the state. Waring vs. the Mayor of Savannah, 60 Georgia 93; The state cannot diminish rights of the people. Hertado v. California, 100 US 516; Preamble to the US and NY Constitutions - We the people ... do ordain and establish this Constitution...; ...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves... CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455, 2 DALL (1793) pp471-472; The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative. Lansing v. Smith, 4 Wend. 9

Common Law Grand Juries arose out of ~~We~~ the People in each of the Fifty States which came together to form a Unified United States Common Law Grand Jury. This was done in an effort to subdue subversion against the United States of America from enemies both foreign and domestic.

There is wide spread ignorance concerning "Non-Judicial Foreclosures" and the "APPEARANCE" that it is a Lawful Procedure that functions without the REQUIRED filing of Proof of Claim (form 4490) and Fiduciary Authority (form 56) which must be filed within the federal district of the claim with copies of the same with notice of the foreclosure served upon the petitioner, giving opportunity of due process as required to comply with the law of the land.

Let this action first serve to inform the defendants that a Non-Judicial Foreclosure lacks Due Process of Law which is an unalienable right protected under the 5th Amendment and that any court permitting such a court filing procedure is acting under the color of law which is a criminal act and enters into a conspiracy, non-judicial foreclosure laws of any State to the contrary not with-standing.

Therefore, ~~We~~ the People DEMAND that the defendants Show Cause by what Constitutional Authority you act that permits an action "*in rem*" against the People without Proof of Claim, Fiduciary Authority and due process OR, notify this Court immediately of your error and withdrawal of your unlawful proceedings that deny due Process of the petitioner; if the home has already been foreclosed, restore the victim to their original state. In lieu of this, you may notify this Court immediately of your errors and withdrawal of your unlawful proceedings that deny due Process of the petitioner and this proceeding will be quashed.

We are offering you a grace period of 30 days for non-government defendants and 60 days for government officials acting under the color of law to correct their errors and restore the petitioner to their original state or defendants will be brought before the Grand Jury for consideration of indictment for conspiracy, subversion, RICO, war against the Constitution and other charges. See Memorandum of Law on Non-Judicial Foreclosures attached.

THEREFORE, on behalf of the petitioner, the Unified United States Common Law Grand Jury DEMANDS that the court of the non-judicial foreclosure filing, in good faith do your duty and protect the victim(s) of these crimes by removing all said filings


(N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.

immediately, cease all non-judicial foreclosure practices and notify this court of the same. We further demand that said defendants withdraw said filing from the court of filing, cease all non-judicial foreclosure filings and notify this court immediately of said actions.

WHEREFORE, if the defendants default, this court will be moved for an order to cease and desist their subversive activities, restore the petitioner to their original state before the misuse of justice under the color of law and be brought before the full Grand Jury for consideration of indictment for conspiracy, subversion, RICO, war against the Constitution and other charges.

SEAL

September 22, 2017



Grand Jury Foreman
Sureties of the Peace

Affidavit of Sergio Rodriguez

I, Sergio Rodriguez, Affiant, being of lawful age, qualified and competent to testify to, and having firsthand knowledge of the following facts, do hereby swear that the following facts are true, correct and not misleading:

On or About May 02, 2005, Sergio Rodriguez and Norma Rodriguez, bought real state property located at 4036 Via San Luis, Riverside, California 92504. The mortgage was provided by Provident Savings Bank. We continued to domicile at this residence, until December 04, 2012.

On or about February first, 2010, our Interest only First and Second mortgage loan, schedule for five years term was lapsing and I found no other available option but to refinance or modification.

JP Morgan Chase set up a trial payment of three monthly payments that my wife and I agreed to. We complied with the trial payment, paying on time. While we were waiting for the final modification process, the three months trial period passed and we were calling to find out what happened. JP Morgan Chase never responded.

Another three months passed and finally I got a contact to an agent who told me that they cannot find my pending documentation. They will call me back as soon as they find my paperwork. We keep calling JP Morgan Chase and another two months passed and the bank agent told me they lost my paperwork and I needed to re-apply for a modification process, which we did.

On or about April 04, 2011 We received a Notice of Trustee sale. We never visited a courthouse about this action, and no trial by jury was ever afforded us in the action to take our property.

We hired John Vargas The Vargas Law Group to help us to save our home but the lawyer only took our money and didn't do anything for us, later I found that he was suspended from practice.

On or About February 19, 2012, our house was sold to US Bank N.A.

On or about March 23, 2012, we received a Notice to Vacate. I hired Sanders Law Group from Corona California to help us, but only kept us in the house for six months while making payments to the law firm.

Finally my wife and I were evicted on or about December 4th, 2012. We went to work in the morning, and upon returning home we found our home with posted signs of the eviction and the door locks changed, under the authority of Stanley Sniff the Riverside County Sheriff.

In summary I wish for the court to restored me and my home to the condition prior to this foreclosure action.


8-15-17
Sergio Rodriguez

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of RIVERSIDE

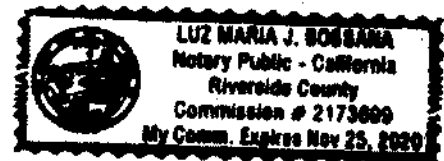
On 8-15-17 before me, LUZ MARIA J. BOGARA
(Insert name and title of the officer) Notary Public

personally appeared SERGIO RODRIGUEZ
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



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Grand Jury, Sovereigns of the Court

We the People

- Against -

Judge Gordon R. Burkhart, CEO Richard Davis
Defendants

Case NO: 1:16-CV-1490

Magistrate: Daniel J. Stewart

**MEMORANDUM OF LAW
NON-JUDICIAL
FORECLOSURES**

This memorandum reveals the fraud upon the People committed by mortgages companies and municipalities. Said fraud differs little between the two. The following conspiratorial process is essentially the same in that the home is securitized.

The Securitization of Mortgages and Tax Foreclosures has become a common and growing white collar swindle that is illegal primarily because of "Antitrust Law Violations", consisting of specific violations such as usury, fraud, conspiracy, forgery and robo-signing. When victims are robbed because State and Federal Legislators pass unconstitutional

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legislation and State Constitutional Courts sanction non-judicial foreclosures by looking the other way, this constitutes RICO and war against the Constitution.

Securitization is the financial practice of pooling various types of contractual debt such as residential mortgages, commercial mortgages, auto loans or credit card debt obligations (or other non-debt assets which generate receivables); and, selling their related cash flows to third party investors as securities, which may be described as bonds, pass-through securities or collateralized debt obligations (CDOs). Investors are repaid from the principal and interest cash flows collected from the underlying debt which is redistributed through the capital structure of the new financing. Securities backed by mortgage receivables are called mortgage-backed securities (MBS), while those backed by other types of receivables are asset-backed securities (ABS). It was the private, competitive mortgage securitization that played an important role in the U.S. subprime mortgage crisis.

The process is not as complicated as it might seem at first glance and might be difficult to recognize as a crime; but, it should become clear to the local village, town, city and county courts and the Sheriff once they realize the process these criminal cartels, known as mortgage companies and municipalities, go through to use the Court and the Sheriff to assist in these illegal seizures of homes without their realizing that they became instruments of a robbery.

CLARIFICATION: Were these mortgage companies able to legally foreclose on the property, they would do so by filing the foreclosure in the State Court to acquire a judgment; then bring it to the Sheriff for collection. The problem is that they cannot produce proof of claim and fiduciary authority over the property and without these two affidavits, they cannot open a lawful court case to provide "*due process*" necessary for a lawful seizure of the property "*in rem*". So the BAR, banks, municipalities and mortgage cartels devised a plan to bypass "*due process*" by lobbying and convincing state legislators, who either consciously conspired; or, because constitutional principles are unbeknownst to them, ignorantly conspired to write unconstitutional "*non-judicial foreclosure statutes*" that proceed "*in rem*", which is a process to seize properties without due process whereas the party seizing the property has a "legal" claim and fiduciary authority.

Such practice moves the presumption of law from "*innocent until proven guilty*" to "*guilty with no opportunity to defend*". This turn American Jurisprudence⁴ on its head by removing

⁴ **JURISPRUDENCE:** The philosophy of law, or the science which treats of the principles of positive law and legal relations; American Jurisprudence is the written law, constitution and principles every judge must obey.

any opportunity for the victims to be heard. This Provides absolute control to defraud without consequence by nefarious mortgage holders and municipalities which there seems to be no shortage of. As well as RICO-governed de facto state courts which allow the non-judicial foreclosure filings without the signature of a judge or magistrate.

"In Rem", under international law, permits the seizure of property without notification to a property owner. This makes sense and is legal under international law at sea dealing with pirates; but, the *"Law of the Land"* a/k/a *"the Supremacy Clause of the Constitution"* requires *"Due Process"*.

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and, all treaties made, or which shall be made, under the authority of the United States, shall be the Supreme Law of the Land; and, the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." -- Constitution for the United States of America Article VI

Congress can make no law that would provide for a statutory construction which would negate the unalienable rights of the People; which is what would be required in order to make a State a *"Non-Judicial Foreclosure State"*. Therefore, no State can establish *"Non-Judicial Foreclosure Laws"*. Such Congressional and/or State actions would negate the following unalienable rights protected by the Constitution and expected to be enforced by the Sheriff:

- (1) the unalienable right protected by the 4th Amendment to be secure from property seizures,
- (2) the unalienable right protected by the 5th Amendment to due process,
- (3) the unalienable right protected by the 7th Amendment to trial by jury, and
- (4) the unalienable right protected by the 7th Amendment to common law courts.

Rights are unalienable⁵ and cannot be transferred.⁶ Any contract that would pass or hand over an unalienable right is null and void. The *"Burden of Proof"* is on the foreclosing party.

⁵ UNALIENABLE: Inalienable; incapable of being alienated, that is, sold and transferred. Black's 4th.

⁶ TRANSFER: To convey or remove from one place, person, etc., to another; pass or hand over from one to another; specifically to make over the possession or control of (as, to transfer a title to land); sell or give. Chappell v. State, 216 Ind. 666, 25 N.E. 2d 999, 1001.

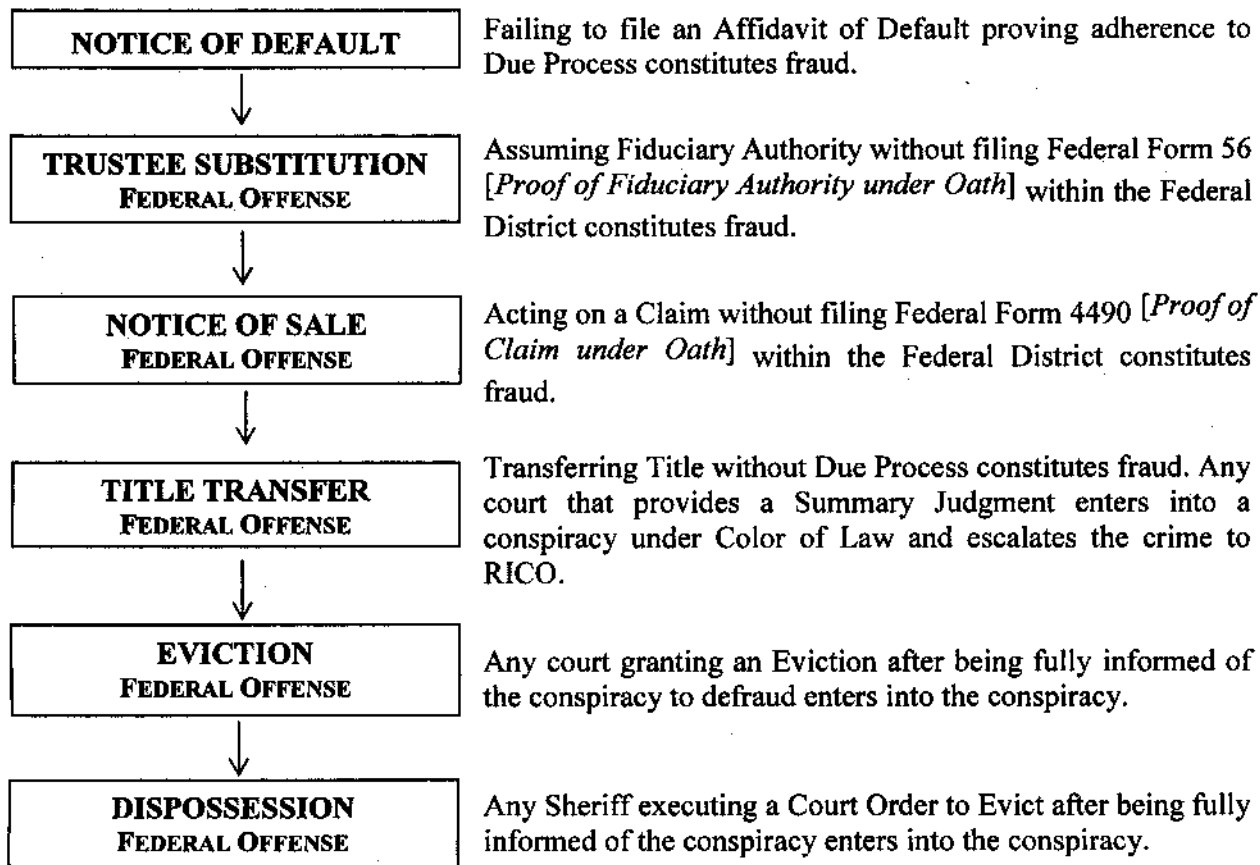
All parties to a Non-Judicial Foreclosure cannot prove their case; nor can they prove their right to sell someone's property without progressing to a Final Judgment in a court of law. Any court that ignores these facts and/or proceeds with a Summary Judgment becomes complicit to the robbery. This violates the victim's rights under Color of Law, thereby giving a reason to move the Case for Cause to an Article III Federal District Court for both criminal and civil remedy.

After establishing unconstitutional statutes, white-collar criminals, acting under Color of Law, devised the following "*ruse*" to manipulate our judicial system and our County Sheriffs so as to create an appearance of lawful acts while illegally seizing the property of their victims:

- (1) Give Notice of Default to the victim, "without judicial process";
- (2) Give Notice of Substitution of Trustee, "without judicial process";
- (3) Give Notice of Sale, "without judicial process";
- (4) Commence public auction, "without judicial process";
- (5) Use aforesaid documents to transfer title, "without judicial process";
- (6) File fraudulent eviction proceedings acting as "*landlord*" (using the fraudulent title) and calling the owner of the property "*tenant*" who owes back rent in an unsuspecting village, town or city court, "giving the appearance of judicial process"; and
- (7) File the fraudulent judgement with the County Clerk to achieve a fraudulent Eviction Order for execution by the unsuspecting Sheriff.

We the People find it apparent that most of our Constitutional Officers are ignorant as to the Law of the Land as defined in the Constitution for the United States of America, Article VI. Therefore, they are often unable to determine constitutional violations which causes Sheriffs to fall prey to the minions of the subversive BAR, in jeopardy of violating their oath and We the People in jeopardy of losing our property and Liberty to tyrants.

This formal "Notification of Crimes" directs the participating courts to honor their oaths and protect the victim(s) from the following RUSE:



STATUTORY CRIMES: Under US laws, Securitized Mortgages are illegal primarily because they are fraudulent and constitute specific violations, namely:

- 1) RICO
- 2) Usury
- 3) Fraud
- 4) Conspiracy
- 5) Forgery
- 6) Robo-signing and
- 7) Antitrust law violations

The "*foreclosure crisis*" is a complex, interconnected series of state-sponsored crimes involving the following steps:


- 1) The mortgage or tax burden is created.
- 2) The mortgage is sold to an investor.
- 3) The mortgage or tax burden payments are loaded onto an international PONZI scheme a/k/a "*mortgage securitization*".

- 4) Compliant judges in state and county courts look the other way, or, provide Summary Proceedings while:
- a. Mortgage companies conceal the fact that the notes and assignments were never delivered to the MBS Trusts [Mortgage-Backed Securities Trusts] while the mortgage companies disseminate false and misleading statements to the investors and the United States Government.
 - b. Mortgage companies pursue foreclosure actions using false and fabricated documents, particularly mortgage assignments. The mortgage companies use Robo-signing on thousands of documents each week with no review or knowledge of the contents of the documents; thus, creating forged mortgage assignments with fraudulent titles in order to proceed with foreclosures.
 - c. Mortgage companies have used these fraudulent mortgage assignments to conceal over 1,400 MBS Trusts, each with mortgages valued over \$1 billion, which are missing critical documents; namely, mortgage assignments which are required to have been delivered to the Trusts at the inception of the Trust.
 - d. Without lawfully executed mortgage assignments, the value of the mortgages and notes held by the Trusts is impaired; effective assignments are necessary for the Trust to foreclose on its assets in the event of mortgage defaults; and the Trusts do not hold good title to the loans and mortgages that investors have been told are secured notes.
 - e. Mortgage assignments are prepared with forged signatures of individuals signing as grantors; and forged signatures of individuals signing as witnesses and Notaries.
 - f. Mortgage assignments are prepared with forged signatures of individuals signing as corporate officers for banks and mortgage companies that have never employed said individuals and corporate officers.
 - g. Mortgage assignments are prepared and signed by individuals as corporate officers of mortgage companies that have been dissolved by bankruptcy years prior to the assignment.
 - h. Mortgage assignments are prepared with purported effective dates unrelated to the date of any actual or attempted transfer; and, in the case of Trusts, with purported effective dates years after the closing date of the Trusts.
 - i. Mortgage assignments are prepared on behalf of grantors who had never themselves acquired ownership of the mortgages and notes by a valid transfer; and, such mortgage assignments include numerous ones where the grantor was identified as "*Bogus Assignee for Intervening Assignments*".

- j. Mortgage assignments are notarized by Notaries who never witness the signatures they notarize.
- k. The MBS Trusts, and their trustees, depositors and servicing companies, further misrepresent to the public the assets of the Trusts; and, issue false statements in their Prospectuses and Certifications of Compliance.
- l. Securitization violates usury laws in that the resulting effective interest rate typically exceeds legally-allowable rates set by State Usury Laws.
- m. All "True-Sale", "Disguised-Loan" and "Assignment" securitizations are essentially tax-evasion schemes. In the United States, the applicable tax-evasion statute is the United States Internal Revenue Code, Section 7201 which reads as follows: *"Any person [corporation] who willfully attempts in any manner to evade or defeat any tax imposed by this title, or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony; and, upon conviction thereof, shall be fined not more than \$500,000; or, imprisoned not more than 5 years; or, both; together with the costs of prosecution."*
- n. Securitization undermines the United States Federal Bankruptcy Policy because it is used in lieu of secured financing as a means of avoiding certain Bankruptcy Law Restrictions. The origins of securitization in the United States can be traced directly to efforts by banks and financial institutions to avoid Bankruptcy Law Restrictions.
- o. Securitization constitutes a violation of Federal RICO Section 1341: Mail Fraud; Section 1343: Wire Fraud; Section 1344: Financial Institution Fraud; Section 1957: Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity; and Section 1952: Racketeering.

SEAL

September 22, 2017



Grand Jury Foreman
Sureties of the Peace

Unifed United States
Common Law Grand Jury
PO Box 59
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CERTIFIED MAIL



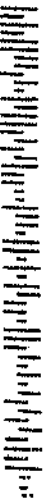
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Court Clerk
US District Court For the Northern
District of New York
445 Broadway [#1:16-CV-1490]
Albany, New York 12207-2936

U.S. DISTRICT COURT
N.D. OF N.Y.
RECEIVED

SEP 26 2017

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